

MONTANA LEGISLATIVE HISTORY

Chapter 522 1997

Bill H 407 S _____ Original bill & history ✓ c

H. Committee on Business & Labor
no status sheet

Hearing Date(s) 2/07 _____ c

2/11 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Labor & Employment

Hearing Date(s) 3/04 _____ c

3-6 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

HB 407 INTRODUCED BY EWER, ET AL.

LC0552 DRAFTER: MCCLURE

DEFINE "CONSTRUCTION SERVICES", "NONCONSTRUCTION SERVICES",
AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING
WAGE LAWS

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO BUSINESS & LABOR		
1/31	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/07	HEARING		
2/08	FISCAL NOTE PRINTED		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED	90	9
2/18	3RD READING PASSED	87	12
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/04	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/20	2ND READING CONCURRED AS AMENDED	38	12
3/21	3RD READING CONCURRED	29	21
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	94	2
4/11	3RD READING CONCURRED AS AMENDED	85	10
4/20	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 522		
	EFFECTIVE DATE: 07/01/97		

HB 408 INTRODUCED BY TREXLER

LC1098 DRAFTER: COLHOUN

EXEMPT FROM REVIEW OF DEVELOPMENT PLANS A PARCEL OF 1 ACRE
OR MORE WITH AN EXISTING WELL AND SEPTIC SYSTEM

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO NATURAL RESOURCES		
1/31	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/06	FISCAL NOTE PRINTED		
2/07	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED	98	0
2/26	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO LOCAL GOVERNMENT		
3/25	HEARING		
4/02	COMMITTEE REPORT—BILL CONCURRED		
4/05	2ND READING CONCURRED	50	0
4/07	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE		
4/09	SIGNED BY SPEAKER		
4/11	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		

House BILL NO. 407

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CONSTRUCTION SERVICES", "NONCONSTRUCTION SERVICES", AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING WAGE LAWS; PROVIDING THAT OTHER INFORMATION OR METHODS MAY BE CONSIDERED TO COMPUTE STANDARD PREVAILING WAGE RATES WHEN INADEQUATE DATA IS OBTAINED BY SURVEY; AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRY TO ESTABLISH THE NUMBER OF DISTRICTS FOR PREVAILING WAGE RATES FOR THE CONSTRUCTION INDUSTRY; ELIMINATING THE REQUIREMENT THAT ALL STATE PUBLIC WORKS CONTRACTS BE SUBJECT TO LEGAL REVIEW; AUTHORIZING TEMPORARY STANDARD PREVAILING WAGE RATES; AMENDING SECTIONS 18-2-401, 18-2-403, 18-2-404, 18-2-409, 18-2-411, 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) A "bona fide resident of Montana" is a person who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the person's past habitation in this state has been coupled with an intention to make it the person's home. Sojourners or persons who come to Montana solely in pursuance of any contract or agreement to perform labor may not be considered to be bona fide residents of Montana within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract;

1 or

2 (ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts
3 with professionals licensed under state law.

4 ~~(3)~~(4) "Department" means the department of labor and industry provided for in 2-15-1701.

5 ~~(4)~~(5) "District" means a prevailing wage rate district established as provided in 18-2-411.

6 ~~(5)~~(6) "Heavy and highway construction wage rates" means wage rates, including fringe benefits
7 for health and welfare and pension contributions, that meet the requirements of the Employee Retirement
8 Income Security Act of 1974 and other bona fide programs approved by the United States department of
9 labor and travel allowance that are determined and established statewide for heavy and highway
10 construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails,
11 parking areas, or utility rights-of-way.

12 (7) "Nonconstruction services" means work performed by an individual, not including management,
13 office, or clerical work, for:

14 (a) the maintenance of publicly owned buildings and facilities, including public highways, roads,
15 streets, and alleys;

16 (b) custodial or security services for publicly owned buildings and facilities;

17 (c) grounds maintenance for publicly owned property;

18 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;

19 (e) law enforcement, including janitors and prison guards;

20 (f) fire protection;

21 (g) public or school transportation driving;

22 (h) nursing, nurse's aid services, and medical laboratory technician services;

23 (i) material and mail handling;

24 (j) food service and cooking;

25 (k) motor vehicle and construction equipment repair and servicing; and

26 (l) appliance and office machine repair and servicing.

27 ~~(6) "Labor" means all services in excess of \$25,000 performed in construction, maintenance, or~~
28 ~~remodeling work in a state, county, municipal, school district, or political subdivision project and does not~~
29 ~~include engineering, superintendence, management, or office or clerical work.~~

30 (8) "Public works contract" means a contract for construction services or nonconstruction services

1 let by the state, county, municipality, school district, or political subdivision in which the total cost of the
2 contract is in excess of \$25,000.

3 ~~(7)(9)~~ (a) "Standard prevailing rate of wages" or "standard prevailing wage" means:

4 (i) the heavy and highway construction wage rates applicable to heavy and highway construction
5 projects; or

6 (ii) those wages, other than heavy and highway construction wages, including fringe benefits for
7 health and welfare and pension contributions, that meet the requirements of the Employee Retirement
8 Security Act of 1974 and other bona fide programs approved by the United States department of labor and
9 travel allowance that are paid in the district by other contractors for work of a similar character performed
10 in that district by each craft, classification, or type of worker needed to complete a contract under this part.
11 In each district, the standard prevailing rate of wages ~~is~~ must be computed from a weighted average wage
12 rate based on all of the hours worked on work of a similar character performed in the district unless the
13 survey of employers in the district does not generate sufficient data. If the survey produces insufficient
14 data, the rate may be established by the use of other information or methods that the commissioner
15 determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule
16 the method or methods by which the standard prevailing rate of wages is determined.

17 (b) When work of a similar character is not being performed in the district, the standard prevailing
18 rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the
19 requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by
20 the United States department of labor and the rate of travel allowance must be those rates established by
21 collective bargaining agreements in effect in the district for each craft, classification, or type of worker
22 needed to complete the contract.

23 ~~(8)(10)~~ "Work of a similar character" means work on private or commercial projects as well as work
24 on public projects."
25

26 **Section 2.** Section 18-2-403, MCA, is amended to read:

27 **"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal**
28 **exception.** (1) In ~~any every public works~~ contract let for state, county, municipal, school, or heavy and
29 highway construction, services, repair, or maintenance work under any law of this state, there must be
30 inserted in the bid specification and the public works contract a provision requiring the contractor to give

1 preference to the employment of bona fide ~~Montana~~ residents of Montana in the performance of the work.

2 (2) All public works contracts under subsection (1), except those for heavy and highway
3 construction, must contain a provision requiring the contractor to pay:

4 (a) the travel allowance that is in effect and applicable to the district in which the work is being
5 performed; and

6 (b) the standard prevailing rate of wages, including fringe benefits for health and welfare and
7 pension contributions, that:

8 (i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other
9 bona fide programs approved by the United States department of labor; and

10 (ii) is in effect and applicable to the district in which the work is being performed.

11 (3) In every public works contract for heavy and highway construction, there must be inserted a
12 provision to require the contractor to pay the heavy and highway construction wage rates established
13 statewide for the project.

14 (4) A contract, other than a public works contract, let for a project costing more than \$25,000 and
15 financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or
16 7, on or after July 1, 1993, must contain a provision requiring the contractor to pay the standard prevailing
17 wage rate in effect and applicable to the district in which the work is being performed unless the contractor
18 performing the work has entered into a collective bargaining agreement covering the work to be performed.

19 (5) A public works contract may not be let to any person, firm, association, or corporation refusing
20 to execute an agreement with the provisions described in subsections (1) through (4) in it, provided that
21 in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in
22 a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to
23 honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or
24 discrimination among citizens of the United States.

25 (6) Failure to include the provisions required by 18-2-422 in a public works contract relieves the
26 contractor from the contractor's obligation to pay the standard prevailing wage rate and places the
27 obligation on the public contracting agency."

28
29 **Section 3.** Section 18-2-404, MCA, is amended to read:

30 **"18-2-404. Approval of public works contract -- bond.** (1) All public works contracts under this

part ~~shall~~ must be approved in writing by the legal adviser of the contracting ~~state~~, county, municipal corporation, school district, assessment district, or special improvement district body or officer prior to execution by the contracting public officer or officers.

(2) In all public works contracts entered into under the provisions of this part, at least \$1,000 of the contract price ~~shall~~ must be withheld at all times until the termination of the public works contract."

Section 4. Section 18-2-409, MCA, is amended to read:

"18-2-409. Montana residents to be employed ~~on state construction~~ under public works contracts.

(1) ~~On~~ Under any ~~state construction project~~ public works contract let by the state and funded by state or federal funds, except a project partially funded with federal aid money from the United States department of transportation or ~~where~~ when residency preference laws are specifically prohibited by federal law and to which the state is a signatory to the ~~construction~~ public works contract, at least 50% of the work must be performed by bona fide ~~Montana~~ residents of Montana, ~~as defined in 18-2-401.~~

(2) For any public works contract ~~awarded for a state construction project let by the state~~, except a project partially funded with federal aid money from the United States department of transportation or ~~where~~ when residency preference laws are specifically prohibited by federal law, there must be inserted in the bid specification and the public works contract a provision, in language approved by the commissioner ~~of labor and industry~~, implementing the requirements of subsection (1). The bid specification and the public works contract must provide that at least 50% of the workers on the project will be bona fide ~~Montana~~ residents of Montana. If there are two or more public works contracts and ~~due to~~ because of a lack of qualified personnel a contractor cannot guarantee that at least 50% of ~~his~~ the contractor's workers will be ~~Montana~~ bona fide residents of Montana, ~~his~~ the contractor's public works contract must provide that the percentage that the commissioner ~~of labor and industry~~ believes possible will be ~~Montana~~ bona fide residents of Montana and one or more of the other public works contracts must provide for a higher percentage of ~~Montana~~ bona fide residents of Montana so that 50% of the workers on the project will be ~~Montana~~ bona fide residents of Montana.

(3) The commissioner ~~of labor and industry~~ shall enforce this section and investigate complaints of its violation and may adopt rules to implement this section."

Section 5. Section 18-2-411, MCA, is amended to read:

1 **"18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy
2 and highway construction wage rates, the commissioner ~~shall~~ may divide the state into ~~at least 10~~
3 prevailing wage rate districts.

4 (2) In initially determining the districts, the commissioner ~~must~~ shall:

5 (a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

6 (b) publish the reasons supporting the creation of each district.

7 (3) A district boundary may not be changed except for good cause and in accordance with the
8 rulemaking procedures in the Montana Administrative Procedure Act.

9 (4) The presence of collective bargaining agreements in a particular area may not be the sole basis
10 for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a
11 particular area be the sole basis for changing the boundaries of a district.

12 (5) For each prevailing wage rate district established under this section, the commissioner shall
13 determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and
14 18-2-402."

15
16 **Section 6.** Section 18-2-421, MCA, is amended to read:

17 **"18-2-421. Notice.** When a public works project is accepted by the public contracting agency, a
18 notice of acceptance and the completion date of the project ~~shall~~ must be sent to the department. However,
19 in the case of ~~projects~~ public works contracts that amount to \$50,000 or less in cost, the notice of
20 acceptance and the completion date of the project is not required unless the department requests that
21 information. The 90-day limitation for filing an action in district court, as provided in 18-2-407, does not
22 begin until the public contracting agency notifies the department of its acceptance of the public works
23 project."

24
25 **Section 7.** Section 18-2-422, MCA, is amended to read:

26 **"18-2-422. Bid specification and public works contract to contain standard prevailing wage rate.**
27 ~~All bid specifications and public works contracts for public works projects and the bid specifications for~~
28 ~~those contracts~~ must contain a provision stating for each job classification the standard prevailing wage
29 rate, including fringe benefits, that the contractors and subcontractors ~~must~~ shall pay during construction
30 of the project."

1 **Section 8.** Section 18-2-432, MCA, is amended to read:

2 **"18-2-432. Penalty for violation.** (1) If a person, firm, or corporation fails to comply with the
3 provisions of this part, the state, county, municipality, school district, or officer of a political subdivision
4 that executed the public works contract shall retain \$1,000 of the contract price as liquidated damages for
5 the violation of the terms of the public works contract, and the money must be credited to the proper funds
6 of the state, county, municipality, school district, or political subdivision.

7 (2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly
8 or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any
9 firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial
10 interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any
11 public works contracts or subcontracts that are subject to the provisions of this chapter.

12 (3) Whenever an action has been instituted in a district court in this state against any person, firm,
13 or corporation for the violation of this part, the court in which the action is pending is authorized to issue
14 an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with
15 the state, county, municipality, school district, or political subdivision, pending the final determination of
16 the instituted action."

17
18 **Section 9.** Section 20-15-403, MCA, is amended to read:

19 **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"
20 appears in the following sections outside of Title 20, the term includes community college districts and the
21 provisions of those sections applicable to school districts apply to community college districts: 2-9-101,
22 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123,
23 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101,
24 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213,
25 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205,
26 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
27 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101, 49-3-102,
28 53-20-304, 77-3-321, 82-10-201, ~~82-10-202~~, through 82-10-203, 85-7-2158, and 90-6-208 and Rules
29 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

30 (2) When the term "school district" appears in a section outside of Title 20 but the section is not

1 listed in subsection (1), the school district provision does not apply to a community college district."

2
3 **NEW SECTION. Section 10. Transition for necessary prevailing wage rates.** (1) The commissioner
4 of labor and industry may adopt temporary standard prevailing wage rates for an occupation or trade for
5 which a standard prevailing wage rate has never been established but that is necessary to implement the
6 provisions of [this act].

7 (2) The commissioner may temporarily incorporate the federal Davis-Bacon Act wage rates
8 established for Montana as the state heavy and highway construction wage rates to provide uniformity
9 between federal and state standard prevailing wage rates for heavy and highway construction.

10
11 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
13 applications, the part remains in effect in all valid applications that are severable from the invalid
14 applications.

15
16 **NEW SECTION. Section 12. Effective date.** [This act] is effective July 1, 1997.

17 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0407, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

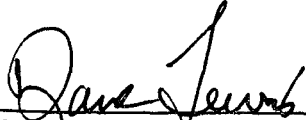
An act defining "construction services", "nonconstruction services", and "public works contract" for purposes of the prevailing wage laws; providing that other information or methods may be considered to compute standard prevailing wage rates when inadequate data is obtained by survey; authorizing the Commissioner of Labor and Industry to establish the number of districts for prevailing wage rates for the construction industry; eliminating the requirement that all state public works contracts be subject to legal review; authorizing temporary standard prevailing wage rates.

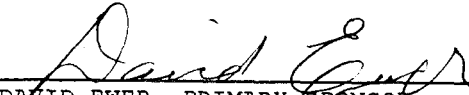
ASSUMPTIONS:

1. The proposed law codifies current practices and interpretations of a prior Attorney General opinion.

FISCAL IMPACT:

There is no fiscal impact to the state.

 2-3-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


DAVID EWER, PRIMARY SPONSOR DATE

Fiscal Note for HB0407, as introduced

HB407

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 7, 1997, at 8:00 AM, in Room 325.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 252, (1/29/97); HB 407, HB 410 (1/31/97)

Executive Action: HB 388; HB 410; HB 240

HEARING ON HB 252

Opening Statement by Sponsor: Rep. Molnar, H. D. 22 introduced the bill. EXHIBITS 1, 9, 13, 25

{Tape: 1; Side: 1; Approx. Time Count: 2.0; Comments: None.}

Don Hutchins, Loss Control Specialist. EXHIBIT 11.

{Tape: 1; Side: 2; Approx. Time Count: 19.9; Comments: None.}

George Hensley, Helena Builder

{Tape: 1; Side: 2; Approx. Time Count: 23.9; Comments: None.}

Missoula Home Builders-cannot understand name and not on list.

{Tape: 1; Side: 2; Approx. Time Count: 26.8; Comments: None.}

Jeff Engle, EXHIBIT 23.

{Tape: 1; Side: 2; Approx. Time Count: 29.3; Comments: None.}

Bob Ross, Ross Const and Flathead Bldg Assn.

{Tape: 1; Side: 2; Approx. Time Count: 30.4; Comments: None.}

Gary Forrester

{Tape: 1; Side: 2; Approx. Time Count: 32.4; Comments: None.}

Chuck Hunter, MT Dept of Labor. EXHIBIT 12.

{Tape: 1; Side: 2; Approx. Time Count: 38.5; Comments: None.}

Jim Eberle, Insurance business, Bozeman. EXHIBIT 15.

{Tape: 1; Side: 2; Approx. Time Count: 39.0; Comments: None.}

Tim Dean, Bozeman, MT. EXHIBIT 14.

{Tape: 1; Side: 2; Approx. Time Count: 40.1; Comments: None.}

Jacqueline Lenmark, Am. Insurance Assn.

{Tape: 2; Side: 1; Approx. Time Count: .1; Comments: None.}

Sandi Nickel, SW Montana Building Assn.

{Tape: 2; Side: 1; Approx. Time Count: .4; Comments: None.}

Tom VanOrel, Dillon Contractor

{Tape: 2; Side: 1; Approx. Time Count: .8; Comments: None.}

Lawrence Hubbard, State Workman's Comp.

{Tape: 2; Side: 1; Approx. Time Count: 1.1; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 2; Side: 1; Approx. Time Count: 1/4; Comments: None.}

Closing by Sponsor: Rep. Molnar closed. EXHIBIT 17.

{Tape: 2; Side: 2; Approx. Time Count: 20.2; Comments: None.}

HEARING ON HB 407

Opening Statement by Sponsor: Rep. Ewer, H. D. 53 introduced the bill. EXHIBIT 18.

{Tape: 3; Side: 1; Approx. Time Count: .8; Comments: None.}

Proponents' Testimony:

Alec Hanson, League of City and Towns

{Tape: 3; Side: 1; Approx. Time Count: 5.0; Comments: None.}

Tim Burton, Chief Administrator Lewis and Clark County

{Tape: 3; Side: 1; Approx. Time Count: 6.7; Comments: None.}

John Andrew, Labor Standards Bureau, Dept. of Labor

{Tape: 3; Side: 1; Approx. Time Count: 7.2; Comments: None.}

Debra Poulton, Dept of Administration

{Tape: 3; Side: 1; Approx. Time Count: 7.8; Comments: None.}

Lance Melton, MT School Board Assn. EXHIBIT 19.

{Tape: 3; Side: 1; Approx. Time Count: 8.0; Comments: None.}

Don Judge, AFL-CIO

{Tape: 3; Side: 1; Approx. Time Count: 9.5; Comments: None.}

Jerry Driscoll, self Billings

{Tape: 3; Side: 1; Approx. Time Count: 9.8; Comments: None.}

Carl Schweitzer, MT Contractors Assn.

{Tape: 3; Side: 1; Approx. Time Count: 10.3; Comments: None.}

Opponents' Testimony: NoneQuestions From Committee Members and Responses:

{Tape: 3; Side: 1; Approx. Time Count: 10.5; Comments: None.}

Closing by Sponsor: Rep. Ewer closed.

{Tape: 3; Side: 1; Approx. Time Count: 11.0; Comments: None.}

HEARING ON HB 410

Opening Statement by Sponsor: Rep. Ahner, H. D. 51 introduced the bill. EXHIBIT 20.

{Tape: 3; Side: 1; Approx. Time Count: 12.0; Comments: None.}

Proponents' Testimony:

Polly LaTray-Holmes, Veterans Assn.. EXHIBIT 21.

{Tape: 3; Side: 1; Approx. Time Count: 14.0; Comments: None.}

Jim Jacobson, MT Veterans Affairs

{Tape: 3; Side: 1; Approx. Time Count: 19.8; Comments: None.}

Hal Manson, American Legion of Montana

{Tape: 3; Side: 1; Approx. Time Count: 20.5; Comments: None.}

Opponents' Testimony:

Annie Helsinger, Adm. Division MT Womens Lobby

{Tape: 3; Side: 1; Approx. Time Count: 22.4; Comments: None.}

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 2/7/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney	✓		
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer	✓		
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
We's Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

EXHIBIT 18
DATE 2/7/97
HB 407

Amendments to House Bill No. 407
First Reading Copy

Requested by Rep. Ewer
For the Committee on Business and Labor

Prepared by Stephen Maly
February 6, 1997

1. Title, line 12.
Strike: "18-2-409,"
2. Page 5, lines 7 through 28.
Strike: section 4 in its entirety
Renumber: subsequent sections

Page 1, line 14
Insert:

Statement of Intent

A statement of intent is required for this bill because it authorizes the commissioner of labor to adopt rules specifying the method or methods of determining the standard prevailing rate of wages in the absence of sufficient data in a district. It is the intent of the legislature that the commissioner of labor adopt rules establishing a process for determining when there is insufficient data generated by a survey of employers in the district. It is the intent of the legislature that the rules identify an amount of data that constitutes "insufficient data," under the amendments to 18-2-401. It is the further intent of the legislature that the methods for identifying the prevailing wage in the absence of sufficient data in the district provide for review and incorporation of data from work of a similar character that is conducted as near as possible to the district.

Page 3, line 16
Following:
Insert:

prevailing rate of wages is determined.

The rules shall establish a process for determining if there is insufficient data generated by a survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules shall identify the amount of data that constitutes "insufficient data" requiring the commissioner of labor to use other methods of determining the standard prevailing rate of wages. The alternative methods of determining the prevailing rate of wages shall provide for review and incorporation of data from work of a similar character that is conducted as near as possible to the original district.

Page 8, line 15
Insert:

NEW SECTION. Section 12 {Standard} Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Renumber: subsequent sections

**HOUSE OF REPRESENTATIVES
VISITORS REGISTER**

SUB-COMMITTEE _____ DATE 2-7-97

BILL NO. 407 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Tim BURTON	Lewis & Clark Co	✓	
LANCE MELTON	MSBA	✓	
Don Judge	MT STATE AFL-CIO	✓	
John Andrew	DCL	✓	
Debra Fulton	DOA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 11, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: Rep. David Ewer

Members Absent:

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 435, HB 431 (2/5/97)
Executive Action: HB 425, HB 55, HB 407, HB 428,
HB 431, HB 391

HEARING ON HB 431

Opening Statement by Sponsor: Rep. Joe Quilici, H. D. 36
introduced the bill. **EXHIBIT 1,2,3 and 5.**
{Tape: 1; Side: 1; Approx. Time Count: .2; Comments: None.}

Motion: Rep. Krenzler moved HB 428 do pass as amended.

Discussion: {Tape: 3; Side: 1; Approx. Time Count: 10.9; Comments: None.}

Motion/Vote: Rep. Sliter substitute motion to Table HB 428.

Motion carried 14-4.

{Tape: 3; Side: 1; Approx. Time Count: 13.3; Comments: None.}

EXECUTIVE ACTION ON HB 407

Motion: Rep. Squires moves do pass HB 407.

{Tape: 3; Side: 1; Approx. Time Count: 15.0; Comments: None.}

Motion/Vote: Rep. Squires moves to adopt Ewer amendments.

Motion carried unanimously.

{Tape: 3; Side: 1; Approx. Time Count: 16.; Comments: None.}

Motion/Vote: Rep. Squires moved to adopt Squires amendment.

Motion carried unanimously.

{Tape: 3; Side: 1; Approx. Time Count: 17.7; Comments: None.}

Motion/Vote: Rep. Squires moved do pass HB 407 as amended.

Motion carried unanimously.

{Tape: 3; Side: 1; Approx. Time Count: 19.3; Comments: None.}

EXECUTIVE ACTION ON HB 55

Motion: Rep. Devaney moved do pass HB 55.

{Tape: 3; Side: 1; Approx. Time Count: 19.7; Comments: None.}

Discussion:

{Tape: 3; Side: 1; Approx. Time Count: 20.0; Comments: None.}

Motion/Vote: Rep. Pavlovich substitute motion to Table HB 55.

Motion carried unanimously.

{Tape: 3; Side: 1; Approx. Time Count: 20.8; Comments: None.}

EXECUTIVE ACTION ON HB 425

Motion: Rep. Stovall moved do pass HB 425.

{Tape: 3; Side: 1; Approx. Time Count: 21.5; Comments: None.}

Discussion: {Tape: 3; Side: 1; Approx. Time Count: 22.1; Comments: None.}

Motion/Vote: Rep. Pavlovich moved to Table HB 425. Motion carried roll call vote 13-6. {Tape: 3; Side: 1; Approx. Time Count: 37.3; Comments: None.}



HOUSE STANDING COMMITTEE REPORT

February 11, 1997

Page 1 of 2

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 407** (first reading copy -- white) **do pass as amended.**

Signed:


Bruce Simon, Chair

And, that such amendments read:

1. Title, line 12.
Strike: "18-2-409,"

2. Page 1, line 16.

Insert: "

Statement of Intent

A statement of intent is desired for this bill because it authorizes the commissioner of labor to adopt rules specifying the method or methods of determining the standard prevailing rate of wages in the absence of sufficient data in a district. It is the intent of the legislature that the commissioner of labor adopt rules establishing a process for determining when there is insufficient data generated by a survey of employers in the district. It is the intent of the legislature that the rules identify an amount of data that constitutes insufficient data under the amendments to 18-2-401. It is the further intent of the legislature that methods for identifying the prevailing wage in the absence of sufficient data in the district provide for review and incorporation of data from work of a similar character that is conducted as near as possible to the district."

3. Page 3, line 16.

Following: "determined."

Insert: "The rules must establish a process for determining if there is insufficient data generated by a survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner

Committee Vote:
Yes 18, No 0.

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of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district."

4. Page 5, lines 7 through 28.
Strike: section 4 in its entirety
Renumber: subsequent sections

5. Page 8, line 10.
Insert: "NEW SECTION. **Section 10. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."
Renumber: subsequent sections

-END-

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 4/11/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney	✓		
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer		X	
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

COMMITTEE--(S) LABOR & EMPLOYMENT RELATIONS

CHAIRMAN--TOM KEATING

SECRETARY-GILDA CLANCY/439

NORMAL SCHEDULE => SITE: ROOM 413/415

DAYS: T,TH,S

TIME: 3:00 P.M.

- BILL NO--		REFERRED	HEARING	OTHER CONSIDERATION	DATES	EXECUTIVE ACTION/DATE/VOTE	-----	REREFERRED	----	DATE READ
HB0101	BERGSAGEL, ERNEST					INCREASING TO \$200,000 PROJECTS THAT MAY BE CONSTRUCTED BY INMATE LABOR				
	2/04	3/06				CONCUR AS AMENDED 3/18 VOTE: 6-3				3/20
HB0115	GRIMES, DUANE					REVISE DEDUCTIONS FROM UNEMPLOYMENT BENEFITS				
	1/21	2/04				CONCUR 2/6 VOTE: 7-0				2/08
HB0150	JOHNSON, ROYAL					DECREASE % OF OLD FUND LIABILITY TAX AND REQUIRE REPAYMENT OF \$20 MILLION				
	3/28	4/08				TABLED 4/15 VOTE: 6-2				
HB0172	SOFT, LOREN					REVISE PROVISIONS ABOUT STATE EMPLOYEES AND EMPLOYMENT PRACTICES				
	1/30	2/11				CONCUR AS AMENDED 3/6 VOTE: 6-3				3/07
HB0252	MOLNAR, BRAD					REVISE CONTRACTOR AND INDEPENDENT CONTRACTOR LAWS				
	3/03	3/13			TABLED 3/20	CONCUR AS AMENDED 3/27 VOTE: 8-1				3/28
HB0341	MERCER, JOHN					OVERTIME EXEMPTION FOR CERTAIN EMPLOYEES OF PARTS STORE				
	2/11	3/11				CONCUR 3/18 VOTE: 9-0				3/20
HB0345	MASOLO, GAY ANN					ADOPTING THE WORKFORCE DRUG AND ALCOHOL TESTING ACT				
	3/03	3/11				CONCUR AS AMENDED 3/20 VOTE: 7-2				3/22
HB0367	BEAUDRY, HALEY					REVISE EXPERIENCE REQUIREMENT FOR CONSTRUCTION BLASTER				
	2/05	3/04				CONCUR 3/6 VOTE: 9-0				3/07
HB0407	EWER, DAVID					REVISE "SERVICES" FOR PREVAILING WAGE PURPOSES				
	2/19	3/04				CONCUR 3/6 VOTE: 9-0				3/07
HB0447	STOVALL, JAY					PERMIT TEMPORARY PRIVATE SECURITY GUARDS				
	3/03	3/11				CONCUR AS AMENDED 3/18 VOTE: 9-0				3/20
HB0517	VICK, STEVE					REQUIRE EMPLOYEE PERMISSION TO DIVERT WAGES/SALARY FOR POLITICAL PURPOSES				
	3/04	3/18				CONCUR AS AMENDED 3/20 VOTE: 9-0				3/22

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MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By CHAIRMAN THOMAS KEATING, on March 4, 1997, at
3:16 P.M., in Room 413/415.

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)

Members Excused: Sen. Bill Wilson (D)

Members Absent: None.

Staff Present: Eddy McClure, Legislative Services Division
Gilda Clancy, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 367, HJR 10, HB 407;
2-24-97

Executive Action: None

HEARING ON HB 367

Sponsor: REP. HALEY BEAUDRY, HD 35, Butte

Proponents: Don Judge, AFL/CIO

Opponents: None

Opening Statement by Sponsor:

REP. HALEY BEAUDRY, HD 35, Butte, said this bill is for blasting
licenses. Currently, a blaster must wait one year, after passing
the test, to get a license to go to work as a blaster. This bill
will change the law so that when a blaster passes his test, he
can get his license right away.

Closing by Sponsor:

REP. HIBBARD said working with these people has been a very gratifying experience. These are hard-working business people who have been frustrated with the system and really don't know how to progress through the system. They have had trouble comprehending how to work through problems as they come up. He believes this is one step in addressing the complications and the problems. There is a number of perceived problems and real problems that these people face in doing business in today's environment.

The perceived problems can be dealt with through education, the real problems will have to be dealt with through solutions like this. He appreciates the committee's consideration.

HEARING ON HB 407

Sponsor: REPRESENTATIVE DAVID EWER, HD 53, Helena

Proponents: John Andrew, Department of Labor & Industry
Alec Hansen, Montana League of Cities & Towns
Tim Burton, Lewis & Clark County
Carl Schweitzer, Montana Contractor's Association
Debra Fulton, Department of Administration
Lance Melton, Montana School Board Association
Don Judge, Montana State AFL/CIO
Jerry Driscoll, Montana State Building Trades

Opponents: None

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, said this bill deals with prevailing wage issues.

He stated over a year ago, the Department of Labor asked several people to form a committee to look at possible ways to clarify and further define occupations in the area of prevailing wage. He said this only pertains to wages and jobs that are public occupations in public governments. Representatives from local governments, cities, towns and counties, as well as organized labor and private sector folks such as the Contractor's Association, the School Board, and state government served on that committee. The Department of Labor was asked to administer prevailing wage laws and the Department of Administration has a lot of contracts.

This is a consensus bill. It is also a compromise bill, it is a bill where people neither win everything nor lose everything.

The Department of Labor initiated this bill because they had a problem of enforcing prevailing wage under current law. All

occupations are covered. The potential universe is unlimited. Since that was not a good position for the Department of Labor, they wanted to narrow the scope of the occupations, which HB 407 does.

That was also an important concession by organized labor. In return, organized labor helps the Department of Labor so that calls can be answered quickly and matters can be resolved.

Also, under current law our construction areas in the state include 10 regions. This is not practical. This bill gives the Department of Labor the authority to reduce the number of regions to possibly one region. That may make it easier to administer this rule.

REP. EWER said the committee who worked on this bill defined service and occupations for the first time. This bill allows the Department of Labor to use other data in determining prevailing wage when there is insufficient data. We have always had a problem in the state regarding insufficient data in determining the prevailing wage in each particular region.

REP. EWER said the committee worked diligently every month for approximately ten months to bring this consensus bill together.

Proponents' Testimony:

John Andrew, Department of Labor of Industry, stated HB 407 represents the work-product of a diverse group of individuals.

From the Department of Labor's perspective, this bill clearly defines those areas of the law that are subject to the services portion of the prevailing wage law, ultimately that will result in a better product for their customers.

The bill also makes the definition of public works projects consistent throughout the statute and it clarifies methods for interim rate setting.

In brief, this legislation addresses long-standing concerns of the Department of Labor, the Department of Administration and those groups who have participated in the formulation of the bill.

Alec Hansen, League of Cities & Towns, said they agree with the final product of this bill.

He said this gives the Department of Labor some flexibility in determining the prevailing wage rates. Since there are now 10 districts across the State of Montana, sometimes this doesn't work. They get into situations where the wages in one area are based on the market rates in another area. Under this bill, if the Department is inclined, they could implement an urban rural rate, which would be more reflective of the market conditions in

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

March 4, 1997

Page 10 of 13

the cities and towns where this work is being done. As it is now, the flexibility is not there. They may be able to figure rate based on project costs and exemptions which would work better for the cities and towns.

At one time there were five districts and the first time **Mr. Hansen** heard of prevailing wage, someone phoned him from Harlowtown and asked him why they had to pay the wage on a public works job. **Mr. Hansen** investigated this and found the prevailing wage rates in Harlowtown were being set on the market rates being paid in Silverbow County. It is difficult to explain to someone in Harlowtown that they are paying the wages based on the labor market in Butte. That was under the old law, and we then went to 10 districts under the new law and there are still problems.

Mr. Hansen stated another important factor is that this bill clears up some confusion over the application law and the types of services it covers. This lists the occupations that are covered by the act. Anytime we can get rid of confusion in law it is doing the public a service. He supports HB 407.

Tim Burton, Chief Administrative Officer, Lewis & Clark County, said he served on the committee as Montana Association of Counties' representative.

This bill does further define what services are covered. This is preferable for local government to determine whether or not they are in compliance with the law. Right now the situation exists that they operate under the Attorney General's opinion. **Mr. Burton** said it is certainly to the local government's advantage to ask the legislature for clarification. He supports this bill.

Carl Schweitzer, Montana Contractors' Association, said the reason the Contractors' Association got involved in this bill is they would like to see the prevailing wages enforced in this state. They believe the matter is one of competition which creates unfair competition when one person gets a job and doesn't pay prevailing wage when another employer bid the job and anticipates paying it.

This bill does not go all the way in enforcement, but **Mr. Schweitzer** believes it is a step in the proper direction. He supports HB 407.

Debra Fulton, Administrator of General Services, Department of Administration stated the Department of Administration has several interests in this bill and that they are a major contractor, both for construction contracts and service contracts.

The major concern they have with prevailing wages in the service area is that their purchasing division frequently has a problem. Agencies call to ask for a contract. For example, if the Department of Agriculture needs a beekeeper in Ekalaka, they know

they must have a prevailing wage in their contract. So the Department of Administration has to call the Department of Labor to get the prevailing wage for beekeepers in Ekalaka. Since there isn't one, the Department of Labor cannot produce one. Not being able to define those services is a real confusion to local governments.

Ms. Fulton stated they would like to be able to define these services and are in support of this bill.

Lance Melton, Montana School Board's Association, said they concur with prior comments of the proponents.

They had a couple of technical concerns in the House and are gratified by the sponsors of the bill to work with them in making the changes. He urged a do-concur from the committee.

Don Judge, Montana State AFL/CIO, said they have worked with large and small businesses over the past months on this bill. This is something they believe will benefit Montanans, workers and employers alike, and they urge the passage of this bill.

Jerry Driscoll, Montana State Building & Construction Trades, said they support the bill, especially the section on the 10 districts. The amendments on page 6 will allow the Department of Labor to put districts together that are alike.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SEN. EMERSON said he understands the need for prevailing wage since the Bacon Act. He asked **REP. EWER** if that is the only thing which brings about the necessity for prevailing wage.

REP. EWER responded that the existence of Little Davis Bacon has been in affect for many, many years. He believes the idea is that the public sector should encourage solid work performance. He thinks this is part of it and the other part is public interest in paying people a liveable wage.

He said HB 407 tries to clarify when we should say that prevailing wage applies. At the present it applies to all occupations and the reality is the Department of Labor cannot enforce that. **REP. EWER** said he believes everyone on the committee who worked on this bill would say the best alternative to this bill would be the resources to enforce the law. It is not practical for **REP. EWER** to ask for a big appropriation.

REP. EMERSON asked if **REP. EWER** was stating that if it wasn't for the Little Davis Bacon Act, there would be no need for this law.

REP. EWER responded that is a fair assessment.

CHAIRMAN KEATING asked REP. EWER in regard to the definition on page 3, line 15, is the \$25,000 the minimum amount of the contract which would fall under the Little Bacon Davis Act?

REP. EWER answered that is correct. He thinks this is current law which they have tried to make the same terminology. They tried to put it in a different position to try to make it the same under public works contract. They don't actually define public works contract for construction or nonconstruction services, but that minimum now is current law.

CHAIRMAN KEATING said then for clarification, the contract less than \$25,000 is not subject to the prevailing wage rate.

REP. EWER responded that is correct.

Closing by Sponsor:

REP. EWER said he appreciates the support of the proponents. Again, this is a consensus bill. It is not a public bill and not everyone gets what they want in this bill. He asked for the support of HB 407.

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

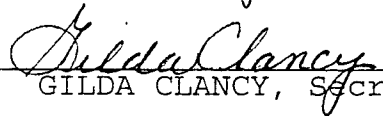
March 4, 1997

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ADJOURNMENT

Adjournment: 4:10 p.m.


SEN. THOMAS F. KEATING, Chairman


GILDA CLANCY, Secretary

TFK/GC

DATE 3-4-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: HB 367, HB 407,
HJR 10

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
FRANK A.J. BRAUN	GOLDEN NUGGET BODY & PAINT	HJR 10	✓	
Frank Braun	Golden Nugget Body & Paint		✓	
Joe R. Cook	NAPA Auto Parts	HJR 10	✓	
John Andrew	Department of Labor	HB 407	✓	
Tim Burton	Lewis & Clark Co	HB 407	✓	
Bob Ruff	D of Labor	HB 407	✓	
Pat Clinch	MT State Council Fire Fighters	HJR 10	✓	
Wiley Johnson	NFIB	HJR 10	✓	
Don Judge	MT STATE AFL-CIO	HJR 10 HB 367 HB 407	✓	
Carl Schweitzer	MT Cont Ass'n	HB 407	✓	
Ed Armstrong	RoCo 470	HJR 10	✓	
David Owen	MT Chambers	HJR 10	✓	
Debra Fulton	D. of Admin	HB 407	✓	
Alex Hansen	CITIES & TOWNS	HB 407	✓	
Pat Haffey	DOL	HJR 10	✓	

VISITOR REGISTER

LANCE NELTON

MSBA

HB 407

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-4-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: HB 367, HB 407, HJR 10

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Check One

Name	Representing	Bill No.	Support	Oppose
<i>Jimmy Dussell</i>	<i>State Building Trades</i>	<i>407</i>	<i>✓</i>	
<i>Don Waldron</i>	<i>MBEA</i>	<i>40</i>	<i>✓</i>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN THOMAS F. KEATING**, on March 6, 1997,
at 3:12 P.M., in Room 413/415

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure, Legislative Services Division
Gilda Clancy, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 101, 3-6-97
Executive Action: HB 172, DO CONCUR AS AMENDED
HB 367, DO CONCUR
HB 407, DO CONCUR
HJR 10, DO CONCUR

HEARING ON HB 101

Sponsor: REPRESENTATIVE ERNEST BERGSAGEL, HD 95, Malta

Proponents: Bob Anderson, Department of Corrections
Ross Swanson, Department of Corrections
Tom O'Connell, Department of Administration

Opponents: Jerry Driscoll, Montana Building Trades Industry
Carl Schweitzer, Montana Contractors' Association
Don Judge, Montana State AFL/CIO

EXECUTIVE ACTION ON HB 407

Amendments: None.

Motion: SEN. BENEDICT moved do concur HB 407.

Motion: SEN. THOMAS made a motion on page 3, line 15, to raise the limit from \$25,000 to \$100,000.

Discussion: SEN. THOMAS said, for example, school districts should have the ability to do the project without going to prevailing wage.

SEN. EMERSON said he would like to see it raised to \$250,000.

SEN. BARTLETT asked SEN. THOMAS or SEN. EMERSON if either has spoken to the sponsor of the bill or anyone else on this working group about this.

SEN. THOMAS said he had not.

SEN. EMERSON said he had not.

SEN. BARTLETT asked Carl Schweitzer what he thought about changing this limit.

Mr. Schweitzer answered they did look at changing the limit and decided not to, so they specifically made the decision to leave it where it was. They felt people should comply with prevailing wage and it did not make sense to increase it.

SEN. BARTLETT asked Mr. Schweitzer to identify who he meant by "we".

Mr. Schweitzer answered SEN. MOHL was adamant about not increasing the limit.

SEN. BARTLETT asked who else was on that committee.

Mr. Schweitzer answered the Department of Labor, the Cities and Counties, as well as himself. There was a pretty broad representation.

SEN. SHEA said her suggestion is that they owe REP. EWER the same courtesy as REP. SOFT regarding not amending his bill without first consulting with him first.

SEN. THOMAS said in this case we are more aware of what this bill does and what this provision would do. Certainly, every bill is different.

SEN. EMERSON said he believes the committee is deciding on something that is reasonable in that they are not changing the meaning of the law, only this amount.

SEN. WILSON asked for clarification on what this would do.

SEN. THOMAS explained with this amendment prevailing wage would not apply to projects which are \$250,000 or less.

SEN. BENEDICT said he agrees with **SEN. THOMAS** and **SEN. EMERSON'S** efforts, but he will not support the motion because he believes the bill would end up in Conference Committee. **SEN. MOHL** and **REP. EWER** would be on the Conference Committee and we would probably end up loosing the bill or putting it back the way it was.

SEN. BENEDICT said he would rather take another look at Little Davis Bacon and prevailing wage in a separate bill and not on this bill.

Motion/Vote: **SEN. EMERSON** moved a substitute amendment that on page 3, line 15 of HB 407, the limit be raised to \$250,000. The motion failed with seven opposing votes and two supporting votes by voice vote.

Discussion: **SEN. THOMAS** said he believes \$100,000 is a reasonable amount. He thinks that \$25,000 is nothing more than holding hands between big labor and big contractors in this State. If it is our position that we cannot put a reasonable level of project in here, we are dictating to our school districts and our taxpayers that they must pay wages that in many cases in the past have not been very well documented or held up to be verifiable in many cases.

This is taxpayers money and in the area he is from, they do not have the money to build big projects, let alone little projects. If the little projects in the school districts in his area can be afforded and funded locally, they maybe they can build and add on to their classrooms. But to have all this government and all this wage set, etc. no matter what the local climate is, **SEN. THOMAS** said he finds this amendment to be extremely reasonable and he hopes it will pass.

SEN. EMERSON said for instance, if the school district wanted to pour an outside basketball court in concrete, it should not be a very difficult thing to do. They would be over the \$25,000 limit right away. He thinks **SEN. THOMAS'** \$100,000 proposal is very reasonable.

SEN. BARTLETT said she would like to point out to the committee this is not a bill that was brought forward by one side or another side of any given issue but grew out of a cooperative work effort by people who crossed the range of interest in this particular issue. They were attempting to address some problems they have experienced under the current statute. She believes **SEN. BENEDICT** is correct that it ends up in Conference Committee and the whole bill dies just on the basis of this amendment or that all will go on and nothing will change in the end.

SEN. BARTLETT said she is somewhat offended by the slap in the face to the people who put a lot of work into resolving some problems before they came to the Legislature and tried to duke it out here and make them a part of their brawl. They did what they most often ask groups to do and that is to go work it out and come back with the solution that they have agreed to. She thinks this amendment is a real slap-in-the-face to all of those people.

Vote: The **motion** to raise the limit to \$100,000 **failed** with five opposing and four supporting by voice vote.

Vote: The **motion DO CONCUR HB 407 PASSED UNANIMOUSLY** by voice vote.

EXECUTIVE ACTION ON HJR 10

Amendments: None.

Motion: **SEN. BARTLETT** moved DO CONCUR HJR 10.

Discussion: None.

Vote: The **MOTION DO CONCUR PASSED UNANIMOUSLY** by voice vote.



SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1997

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill 407 (third reading copy -- blue), respectfully report that House Bill 407 be concurred in.

Signed: *Keating*
Senator Thomas F. Keating, Chair

TS Amd. Coord.
Sec. Sec. of Senate

Senator Mabe
Senator Carrying Bill

500913SC.STS

40

HOUSE BILL NO. 407

INTRODUCED BY EWER, MOHL

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CONSTRUCTION SERVICES", "NONCONSTRUCTION SERVICES", AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING WAGE LAWS; PROVIDING THAT OTHER INFORMATION OR METHODS MAY BE CONSIDERED TO COMPUTE STANDARD PREVAILING WAGE RATES WHEN INADEQUATE DATA IS OBTAINED BY SURVEY; AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRY TO ESTABLISH THE NUMBER OF DISTRICTS FOR PREVAILING WAGE RATES FOR THE CONSTRUCTION INDUSTRY; ELIMINATING THE REQUIREMENT THAT ALL STATE PUBLIC WORKS CONTRACTS BE SUBJECT TO LEGAL REVIEW; AUTHORIZING TEMPORARY STANDARD PREVAILING WAGE RATES; AMENDING SECTIONS 18-2-401, 18-2-403, 18-2-404, ~~18-2-409, 18-2-411~~, 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS DESIRED FOR THIS BILL BECAUSE IT AUTHORIZES THE COMMISSIONER OF LABOR TO ADOPT RULES SPECIFYING THE METHOD OR METHODS OF DETERMINING THE STANDARD PREVAILING RATE OF WAGES IN THE ABSENCE OF SUFFICIENT DATA IN A DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE COMMISSIONER OF LABOR ADOPT RULES ESTABLISHING A PROCESS FOR DETERMINING WHEN THERE IS INSUFFICIENT DATA GENERATED BY A SURVEY OF EMPLOYERS IN THE DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE RULES IDENTIFY AN AMOUNT OF DATA THAT CONSTITUTES INSUFFICIENT DATA UNDER THE AMENDMENTS TO 18-2-401. IT IS THE FURTHER INTENT OF THE LEGISLATURE THAT METHODS FOR IDENTIFYING THE PREVAILING WAGE IN THE ABSENCE OF SUFFICIENT DATA IN THE DISTRICT PROVIDE FOR REVIEW AND INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER THAT IS CONDUCTED AS NEAR AS POSSIBLE TO THE DISTRICT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-401, MCA, is amended to read:

1 **"18-2-401. Definitions.** Unless the context requires otherwise, in this part, the following definitions
2 apply:

3 (1) A "bona fide resident of Montana" is a person who, at the time of employment and immediately
4 prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly
5 justify the conclusion that the person's past habitation in this state has been coupled with an intention to
6 make it the person's home. Sojourners or persons who come to Montana solely in pursuance of any
7 contract or agreement to perform labor may not be considered to be bona fide residents of Montana within
8 the meaning and for the purpose of this part.

9 (2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

10 (3) (a) "Construction services" means work performed by an individual in construction, heavy
11 construction, highway construction, and remodeling work.

12 (b) The term does not include:

13 (i) engineering, superintendence, management, office, or clerical work on a public works contract;

14 or

15 (ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts
16 with professionals licensed under state law.

17 ~~(3)(4)~~ "Department" means the department of labor and industry provided for in 2-15-1701.

18 ~~(4)(5)~~ "District" means a prevailing wage rate district established as provided in 18-2-411.

19 ~~(5)(6)~~ "Heavy and highway construction wage rates" means wage rates, including fringe benefits
20 for health and welfare and pension contributions, that meet the requirements of the Employee Retirement
21 Income Security Act of 1974 and other bona fide programs approved by the United States department of
22 labor and travel allowance that are determined and established statewide for heavy and highway
23 construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails,
24 parking areas, or utility rights-of-way.

25 (7) "Nonconstruction services" means work performed by an individual, not including management,
26 office, or clerical work, for:

27 (a) the maintenance of publicly owned buildings and facilities, including public highways, roads,
28 streets, and alleys;

29 (b) custodial or security services for publicly owned buildings and facilities;

30 (c) grounds maintenance for publicly owned property;

- (d) the operation of public drinking water supply, waste collection, and waste disposal systems;
- (e) law enforcement, including janitors and prison guards;
- (f) fire protection;
- (g) public or school transportation driving;
- (h) nursing, nurse's aid services, and medical laboratory technician services;
- (i) material and mail handling;
- (j) food service and cooking;
- (k) motor vehicle and construction equipment repair and servicing; and
- (l) appliance and office machine repair and servicing.

~~(6) "Labor" means all services in excess of \$25,000 performed in construction, maintenance, or remodeling work in a state, county, municipal, school district, or political subdivision project and does not include engineering, superintendence, management, or office or clerical work.~~

(8) "Public works contract" means a contract for construction services or nonconstruction services let by the state, county, municipality, school district, or political subdivision in which the total cost of the contract is in excess of \$25,000.

~~(7)~~(9) (a) "Standard prevailing rate of wages" or "standard prevailing wage" means:

(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or

(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages ~~is~~ must be computed from a weighted average wage rate based on all of the hours worked on work of a similar character performed in the district unless the survey of employers in the district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. THE RULES MUST ESTABLISH A PROCESS FOR DETERMINING IF THERE IS INSUFFICIENT DATA GENERATED BY A SURVEY

1 OF EMPLOYERS IN THE DISTRICT THAT REQUIRES THE USE OF OTHER METHODS OF DETERMINING THE
2 STANDARD PREVAILING RATE OF WAGES. THE RULES MUST IDENTIFY THE AMOUNT OF DATA THAT
3 CONSTITUTES INSUFFICIENT DATA AND REQUIRE THE COMMISSIONER OF LABOR TO USE OTHER
4 METHODS OF DETERMINING THE STANDARD PREVAILING RATE OF WAGES WHEN INSUFFICIENT DATA
5 EXISTS. THE ALTERNATIVE METHODS OF DETERMINING THE PREVAILING RATE OF WAGES MUST
6 PROVIDE FOR REVIEW AND THE INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER
7 THAT IS CONDUCTED AS NEAR AS POSSIBLE TO THE ORIGINAL DISTRICT.

8 (b) When work of a similar character is not being performed in the district, the standard prevailing
9 rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the
10 requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by
11 the United States department of labor and the rate of travel allowance must be those rates established by
12 collective bargaining agreements in effect in the district for each craft, classification, or type of worker
13 needed to complete the contract.

14 ~~(8)~~(10) "Work of a similar character" means work on private or commercial projects as well as work
15 on public projects."
16

17 **Section 2.** Section 18-2-403, MCA, is amended to read:

18 **"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal**
19 **exception.** (1) In ~~any every public works contract let for state, county, municipal, school, or heavy and~~
20 ~~highway construction, services, repair, or maintenance work under any law of this state,~~ there must be
21 inserted in the bid specification and the public works contract a provision requiring the contractor to give
22 preference to the employment of bona fide ~~Montana~~ residents of Montana in the performance of the work.

23 (2) All public works contracts under subsection (1), except those for heavy and highway
24 construction, must contain a provision requiring the contractor to pay:

25 (a) the travel allowance that is in effect and applicable to the district in which the work is being
26 performed; and

27 (b) the standard prevailing rate of wages, including fringe benefits for health and welfare and
28 pension contributions, that:

29 (i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other
30 bona fide programs approved by the United States department of labor; and

45

(ii) is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the heavy and highway construction wage rates established statewide for the project.

(4) A contract, other than a public works contract, let for a project costing more than \$25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, on or after July 1, 1993, must contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(5) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (4) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(6) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency."

Section 3. Section 18-2-404, MCA, is amended to read:

"18-2-404. Approval of public works contract -- bond. (1) All public works contracts under this part ~~shall~~ must be approved in writing by the legal adviser of the contracting ~~state~~, county, municipal corporation, school district, assessment district, or special improvement district body or officer prior to execution by the contracting public officer or officers.

(2) In all public works contracts entered into under the provisions of this part, at least \$1,000 of the contract price ~~shall~~ must be withheld at all times until the termination of the public works contract."

~~**Section 4.** Section 18-2-409, MCA, is amended to read:~~

~~**"18-2-409. Montana residents to be employed on state construction under public works contracts.**~~

~~(1) On Under any state construction project public works contract let by the state and funded by state or~~

1 federal funds, except a project partially funded with federal aid money from the United States department
2 of transportation or where when residency preference laws are specifically prohibited by federal law and
3 to which the state is a signatory to the construction public works contract, at least 50% of the work must
4 be performed by bona fide Montana residents of Montana, as defined in 18-2-401.

5 (2) ~~For any public works contract awarded for a state construction project let by the state, except~~
6 ~~a project partially funded with federal aid money from the United States department of transportation or~~
7 ~~where when residency preference laws are specifically prohibited by federal law, there must be inserted~~
8 ~~in the bid specification and the public works contract a provision, in language approved by the~~
9 ~~commissioner of labor and industry, implementing the requirements of subsection (1). The bid specification~~
10 ~~and the public works contract must provide that at least 50% of the workers on the project will be bona~~
11 ~~fide Montana residents of Montana. If there are two or more public works contracts and due to because~~
12 ~~of a lack of qualified personnel a contractor cannot guarantee that at least 50% of his the contractor's~~
13 ~~workers will be Montana bona fide residents of Montana, his the contractor's public works contract must~~
14 ~~provide that the percentage that the commissioner of labor and industry believes possible will be Montana~~
15 ~~bona fide residents of Montana and one or more of the other public works contracts must provide for a~~
16 ~~higher percentage of Montana bona fide residents of Montana so that 50% of the workers on the project~~
17 ~~will be Montana bona fide residents of Montana.~~

18 (3) ~~The commissioner of labor and industry shall enforce this section and investigate complaints~~
19 ~~of its violation and may adopt rules to implement this section."~~

20
21 **Section 4.** ~~Section 18-2-411, MCA, is amended to read:~~

22 **"18-2-411. Creation of prevailing wage rate districts.** (1) ~~Without taking into consideration heavy~~
23 ~~and highway construction wage rates, the commissioner shall may divide the state into at least 10~~
24 ~~prevailing wage rate districts.~~

25 (2) ~~In initially determining the districts, the commissioner must shall:~~

26 (a) ~~follow the rulemaking procedures in the Montana Administrative Procedure Act; and~~

27 (b) ~~publish the reasons supporting the creation of each district.~~

28 (3) ~~A district boundary may not be changed except for good cause and in accordance with the~~
29 ~~rulemaking procedures in the Montana Administrative Procedure Act.~~

30 (4) ~~The presence of collective bargaining agreements in a particular area may not be the sole basis~~

1 ~~for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a~~
2 ~~particular area be the sole basis for changing the boundaries of a district.~~

3 ~~(5) For each prevailing wage rate district established under this section, the commissioner shall~~
4 ~~determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and~~
5 ~~18-2-402."~~

6
7 **Section 4.** Section 18-2-421, MCA, is amended to read:

8 "18-2-421. **Notice.** When a public works project is accepted by the public contracting agency, a
9 notice of acceptance and the completion date of the project ~~shall~~ must be sent to the department. However,
10 in the case of ~~projects~~ public works contracts that amount to \$50,000 or less in cost, the notice of
11 acceptance and the completion date of the project is not required unless the department requests that
12 information. The 90-day limitation for filing an action in district court, as provided in 18-2-407, does not
13 begin until the public contracting agency notifies the department of its acceptance of the public works
14 project."

15
16 **Section 5.** Section 18-2-422, MCA, is amended to read:

17 "18-2-422. **Bid specification and public works contract to contain standard prevailing wage rate.**
18 ~~All bid specifications and public works contracts for public works projects and the bid specifications for~~
19 ~~those contracts~~ must contain a provision stating for each job classification the standard prevailing wage
20 rate, including fringe benefits, that the contractors and subcontractors ~~must~~ shall pay during construction
21 of the project."

22
23 **Section 6.** Section 18-2-432, MCA, is amended to read:

24 "18-2-432. **Penalty for violation.** (1) If a person, firm, or corporation fails to comply with the
25 provisions of this part, the state, county, municipality, school district, or officer of a political subdivision
26 that executed the public works contract shall retain \$1,000 of the contract price as liquidated damages for
27 the violation of the terms of the public works contract, and the money must be credited to the proper funds
28 of the state, county, municipality, school district, or political subdivision.

29 (2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly
30 or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any

1 firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial
2 interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any
3 public works contracts or subcontracts that are subject to the provisions of this chapter.

4 (3) Whenever an action has been instituted in a district court in this state against any person, firm,
5 or corporation for the violation of this part, the court in which the action is pending is authorized to issue
6 an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with
7 the state, county, municipality, school district, or political subdivision, pending the final determination of
8 the instituted action."

9
10 **Section 7.** Section 20-15-403, MCA, is amended to read:

11 **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"
12 appears in the following sections outside of Title 20, the term includes community college districts and the
13 provisions of those sections applicable to school districts apply to community college districts: 2-9-101,
14 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123,
15 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101,
16 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213,
17 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205,
18 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
19 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101, 49-3-102,
20 53-20-304, 77-3-321, 82-10-201, ~~82-10-202~~, through 82-10-203, 85-7-2158, and 90-6-208 and Rules
21 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

22 (2) When the term "school district" appears in a section outside of Title 20 but the section is not
23 listed in subsection (1), the school district provision does not apply to a community college district."

24
25 **NEW SECTION. Section 8. Transition for necessary prevailing wage rates.** (1) The commissioner
26 of labor and industry may adopt temporary standard prevailing wage rates for an occupation or trade for
27 which a standard prevailing wage rate has never been established but that is necessary to implement the
28 provisions of [this act].

29 (2) The commissioner may temporarily incorporate the federal Davis-Bacon Act wage rates
30 established for Montana as the state heavy and highway construction wage rates to provide uniformity

1 between federal and state standard prevailing wage rates for heavy and highway construction.

2
3 NEW SECTION. SECTION 9. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND
4 DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN
5 BEFORE [THE EFFECTIVE DATE OF THIS ACT].

6
7 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
9 applications, the part remains in effect in all valid applications that are severable from the invalid
10 applications.

11
12 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 1997.

13 -END-

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